

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JOSEPH HENRY EDWARD HAYNES §
v. § CIVIL ACTION NO. 6:16cv1136
JACINTA ASSAVA, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Joseph Haynes, a prisoner of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights during his confinement in the Gregg County Jail. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants are: Nurse Practitioner Jacinta Assava, classification officer Deanna Francis, Coffield Unit clinic manager Pamela Pace, Unit Warden James Rupert, and Dr. Gary Wright. A Report has previously issued recommending dismissal of Warden Rupert, to which no objections have been filed.

Haynes complained that the Defendants were deliberately indifferent to his medical needs and safety. The Defendants Dr. Wright and Nurse Practitioner Assava filed a motion for summary judgment, and Deanna Francis filed a separate motion for summary judgment. Pace filed a motion to dismiss.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the Defendants' motions for summary judgment and to dismiss be granted and the lawsuit dismissed with prejudice. Haynes received a copy of the Report on January 23, 2019, but filed no objections thereto; accordingly, he is barred from *de novo* review by the District Judge of those findings,

conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Reports of the Magistrate Judge. Upon such review, the Court has determined that the Reports of the Magistrate Judge are correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Reports of the Magistrate Judge (docket no.'s 30 and 51) are hereby **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Plaintiff's claims, which were made *in forma pauperis* against the Defendant Warden Rupert, are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim upon which relief may be granted. It is further

ORDERED that the motions for summary judgment by the Defendants Dr. Wright and Nurse Practitioner Assava (docket no. 49) and Deanna Francis (docket no. 41) and the motion to dismiss by the Defendant Pamela Pace (docket no. 35) are **GRANTED** and the claims against these Defendants are **DISMISSED WITH PREJUDICE**. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** February 25, 2019.



Ron Clark, Senior District Judge